

when there was a fuss over in front of Shepherd's. Never had seen Bailey making any disturbance around on outside, pull Percy's nose or have any trouble with Mrs. Harrison.

After this testimony, the state closed its case and the defense began its evidence in rebuttal, James Schooley being first called to the stand.

JAMES SCHOOLEY.

James Schooley, acquainted with Mrs. Harrison and daughter, said their reputation was good as far as he knew. Witness stated that he had heard since she left, that she was in a delicate condition, and that he had heard bad reports about Mrs. Harrison and daughter after they had left. Stated that before, he had not; was not in Malta Bend from August to January, 1899.

J. T. LINE.

J. T. Line, knew the reputation of Mrs. Harrison and daughter to be good so far as he knew; had known them for five years.

MRS. LUCY BEAVER.

Mrs. Lucy Beaver knew the reputation of Mrs. Harrison and daughter to be good, and had never heard any remarks derogatory to their reputation for chastity and morality.

WM. BEAVER.

Wm. Beaver knew the reputation for chastity and morality of Mrs. Annie Harrison and Gracie to be good.

D. K. MILLER.

D. K. Miller recalled, testified to the good reputation of Mrs. Harrison and daughter, Gracie.

JOHN HIGGINS.

John Higgins had known Mrs. Annie Harrison and Gracie, her daughter, and their reputation to be good.

WM. HAGGARD.

Wm. Haggard testified to the good reputation of Mrs. Harrison so far as he knew, and also that of Gracie Harrison. Had heard remarks against their chastity and virtue before and after the shooting.

The defense here closed its rebuttal testimony and the court inquired of the attorneys for their instructions, which they agreed to furnish Tuesday morning at 8 o'clock. Witnesses were then discharged.

LAST DAY OF THE TRIAL.

On Tuesday morning before 8 o'clock, an hour before the opening of court, crowds began to assemble in the court-room, picking the choice seats, that they might see and hear the last clashes between the attorneys of the prosecution and defense, in their reviews and arguments upon this widely celebrated and much-talked of murder case, in which Thomas Q. Purcell was on trial for his life, charged with the murder of Charles C. Bailey. Thirty minutes before court had convened, all seating space was occupied by the crowds, of which ladies were by no means a small part. The outcome of the trial was upon every lip. The supporters of the prosecution and the sympathizers of the defendant each expressed their hope and anticipation of what the verdict might be.

Shortly before 9 o'clock the defendant came in, accompanied by the sheriff. He was paler than usual, but not restless or excited. He sat as he had each preceding day, at his father's side. Leaning close towards each other, their conversation was evidently anxious and disturbed; occasionally he turned to speak a few words with young lady friends, who sat behind, but few smiles passed upon his countenance, and only once or twice did it relax from its anxious and inquiring look.

Across the table sat the relatives of the deceased Charles C. Bailey, his mother wearing the veil and garb of mourning, two married sisters and Miss Jennie Bailey, all dressed in

black, and other relatives and friends of the man who had come to his death at the hand of the defendant, who sat across the table.

Every day they had occupied these chairs at the right of the lawyers' table, and before nine they were in their accustomed places. Not until 10:10 did the attorneys appear, after being out with the court agreeing upon instructions for the jury. The crowds which packed the aisles and stood far out in hallways leading to the court-room, had grown restless and impatient when Judge Rich took his seat, but soon all was hushed in the silence of expectancy.

At 10:20 Judge Rich rapped for order. He commended the crowd for its previous conduct and expressed the hope that this might continue during the arguments of the case. Then the jury of twelve filed in, all eyes turning upon the men in whose hands rested the case of the defendant.

A. F. Rector then read the instructions of the state, which were for murder in the first and second degrees, and explained the requisites making the killing of Charles Bailey by defendant, Purcell, one or the other of these cases. The court further issued instructions for manslaughter and defined the penalty to be affixed should such a verdict be returned.

R. B. Ruff then read the instructions in behalf of the defendant, defining the rights of the defendant in the preservation of his own life if he thought same threatened by the deceased, and what mitigating circumstances might exist to acquit the defendant.

JUDGE HUNTER'S ADDRESS.

Judge Hunter at ten minutes of eleven, opened the argument for the state, touching first upon the arduous work of the week, and then upon the responsibility of the jury to uphold the sanctity of the law. He held that only in the attorney's mind had existed the mystical surroundings of factional persecution by the people of that community in which the murder occurred. Then he opened up a review of the evidence of the case, giving first a plat of the town and a description of the buildings upon the square, and those about Schooley's stable. He brought out the point that at no time had it been proven that the deceased carried arms. Commencing with the episode referred to by Otte, in which Purcell had stated he came near shooting him, mistaking him for Bailey, he passed to the evidence of Charlie Franklin, by which the defendant showed his intentions and the means through which he sought to evade the penalty, then the conversation of the afternoon and his threat. On the afternoon of the 9th, when the top incident took place, the position of the parties was shown and the incident which brought up the conversation, then the deliberation of the defendant in standing out in the street, cursing the deceased, and the aggravation of his remarks in trying to provoke Bailey to attack him. Reviewed the evidence of Rev. Mr. James, A. S. Van Anglen, Carl Wilson and Eb Rozell, whose testimony was contradicted by no one except the defendant himself.

Then passed to the loan Purcell had secured from Downs later that evening, showed the position of the three rooms, and the threats made at that time by Purcell and his intentions relating to the money secured. The corroboration of this evidence was recalled. The speaker then touched forcibly upon the duty of all law abiding citizens to uphold the law and assist in the prosecution of its breakers.

He took up the evidence of Mrs. Bailey to the effect that Jim had left home at 10 a. m. Saturday, March 10th; of Enyard having met Jim near the farm going out between 10 and 11 o'clock; of Levy who saw him returning late that evening with a bucket of milk on his arm and of Mrs. Bailey, who was present with

him at supper and who saw him leave later to go to town. All the evidence relative to the shooting at Schooley's barn was closely recalled and presented. Before closing, Judge Hunter reviewed the evidence of the defense's witnesses, brought up the points in which their testimony had been discredited, and referred to the manner in which the general reputation of the defendant and Mrs. Harrison and daughter had been made plain. He paid a tribute to the men of Malta Bend and attributed their prosecution of Purcell as a desire upon their part to uphold the law and protect their homes. In plain, strong words, he bade the jury uphold the law and deal out justice as they saw it, leaving acts of mercy to its proper dispensers, exhorting them to put aside their sympathies for the parents of defendant, remembering at the same time that the mother and sisters of the deceased were objects of sympathy in that the defendant had robbed them of son and brother, the protection of their home. His review of the case was closely and concisely drawn, each argument succeeding in proper order that into which it dovetailed. Not only did he build a strong prosecution, but in his impeachment of the character of the defense's star witness and his exposition of the many inconsistencies and improbabilities narrated in behalf of the defendant, his argument was vigorous and clean.

ARGUMENT FOR THE DEFENSE.

R. B. Ruff, in opening, professed his confidence in the ability and sincerity of the jury and in the evidence presented by the defense during the trial, and proclaimed the prosecution of the defendant to be the persecution of a gang. He said the act Purcell was being tried for, was not a crime, and that the people of Saline County were prejudiced against Purcell because he had been in jail and the people had never heard his side of the case. Taking up the instructions of the state he discussed the requirements of murder in the 1st degree, holding the position that the instructions for murder in 2nd degree and manslaughter were an admission upon the part of the state that the shooting was not a case of murder in 1st degree. Then proceeded upon the evidence offered; claimed that in this case there was more prejudice than in any other ever tried in this court, that to partisanship and factionalism might be charged this whole prosecution. Digressing from this case, the attorney found an example of what factionalism and partisanship would do in the "murder of the governor of the great state of Kentucky." He brought up the garbled newspaper reports and the protest signed by the people of Malta Bend, tried to make a partisan argument of this, leaving out the Kansas City Times and mentioning the two Republican newspapers as the only ones at fault. Brought up the Confederate record of the defendant's father and commended Purcell in the statement that "the Purcells were gentlemen." His argument was then resumed upon the evidence presented concerning the facts prior to and at the time of the shooting. The speaker in closing his argument, reread the instruction offered as to what rights the defendant had in self defence, attributed the testimony of Otte whose character had been impeached to the use of money, and touched upon the Malta Bend factionalism involved in the case. Following came a picture of what would take place, should the jury bring in a verdict of guilty against the defendant with references to John Brown whose spirit he claimed went "marching on" in the factionalism at Malta Bend. In concluding, he turned to the father of the defendant to tell him that he owed him nothing for his services and contrasted his own position with that of one attorney for the state. He closed his argument at 5 o'clock.

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